

REMARKS

Applicants respectfully request reconsideration of the present Application. Claims 1-8, 10-11, 14-16, 25-27, 32, and 46 have been amended and claim 13 has been canceled herein. Care has been exercised to introduce no new matter. Claims 1-12, 14-32, and 34-46 are pending and are in condition for allowance.

Rejections based on 35 U.S.C. § 112

Claims 15, 25, and 46 were rejected under 35 U.S.C. § 112 as ostensibly being indefinite because the term “substantially” is a relative term. Claims 15, 25, and 46 have been amended herein to remove the term “substantially” from the claims. As such, Applicants respectfully submit that claims 15, 25, and 46 are not indefinite and request withdrawal of the rejection thereof.

Claim 27 was rejected under 35 U.S.C. § 112 as ostensibly being indefinite because there is insufficient antecedent basis for “the CTR” in lines 4-6 of claim 6. Claim 27 has been amended herein to provide proper antecedent basis for the claim limitation. As such, Applicants respectfully submit that claim 27 is not indefinite and request withdrawal of the rejection thereof.

Rejections based on 35 U.S.C. § 102

Claims 1-15 were rejected under 35 U.S.C. 102(e) as ostensibly being anticipated by Kamangar, et al., U.S. Publication No. 2003/0046161 (hereinafter “Kamangar”).

Independent Claim 1

Independent claim 1, as currently amended, in part recites a method for optimizing search results listings displayed in a search web page. An actual performance of each listing in a set of listings located in web pages is measured. The set of listings includes a

plurality of listings. An expected performance is assigned to each listing in the set of listings based on the location of the listing in the web page. The actual performance of each of the listings is compared to the expected performance to identify an overall performance for the set of listings. The set of listings is promoted to a more prominent location when the overall performance indicates that overall the actual performances of the listings in the set of listings are better than the expected performances. The set of listings is demoted to a less prominent location when the overall performance indicates that overall the actual performances of the listings in the set of listings are poorer than the expected performances. A listing from the set of listings is displayed at the more prominent location or at the less prominent location.

In contrast, Kamangar describes a method for ordering advertisements based on performance information. *See Title of Kamangar*. Accordingly, a list of candidate ads is obtained and performance parameters for the ads are identified. *Kamangar* at ¶ [0040]. A score is determined for each of the candidate ads based on the performance parameters. *Id.* at ¶ [0043]. The ads are then ordered with respect to one another based on their score. *Id.* The ads are then selected for display and located in a search results Web page for display based on their score ranking with respect to one another. *Id.* at ¶ [0049].

As such, Applicants respectfully submit that Kamangar does not describe, expressly or inherently, each and every element of independent claim 1. Kamangar does not describe a promoting and demoting a *set* of listings as recited by the claim. Kamangar describes using a relevancy determination to determine candidate ads for a given ad request and an optimization operation to select a final set of candidate ads. *Kamangar* at ¶ [0033]. Performance parameters are then employed to determine a score for each of the ads in the final set and an order determined for the ads based on the scores. *Id.* at ¶ [0043]. Thus, for a web page having

four available ad spaces (1, 2, 3, and 4 in descending order of priority), Kamangar would identify four ads (A, B, C, and D) to be inserted therein, determine a priority order of four ads based on their scores with respect to one another, and insert each of the ads into a corresponding ad space. For example 1-C, 2-A, 3-D, and 4-B in descending order of priority with respect to one another as described by Kamangar. *See id.*

Conversely, by independent claim 1, an actual performance and expected performance are compared for each listing in a set of listings to identify an overall performance for the *set* of listings. The listings in the set are not ordered with respect to one another by this process as is described by Kamangar. Further, the *set* of listings is promoted or demoted based on the overall performance of the set. Returning to the example above having four ad spaces 1, 2, 3, and 4, and assuming a set of listings includes the four listings A, B, C, and D, then following independent claim 1, the overall performance of the each of the listings A, B, C, and D as a set is used to promote or demote the *set*. Thus, all of the listings are promoted or demoted. For example, if the set is promoted to the highest priority then the ad spaces are filled as 1-set (A, B, C, D), 2-X, 3-Y, and 4-Z where X, Y, and Z are listings from other sets or other individual listings. Therefore, one of the listings from the set is selected and displayed in ad space 1 each time a listing is requested for ad space 1. Kamangar does not describe promoting or demoting a *set* in this manner.

Accordingly, it is respectfully submitted that Kamangar fails to describe, either expressly or inherently, each and every element of independent claim 1. Moreover, Kamangar fails to show the identical invention in as complete detail as contained in the claim. Thus, it is respectfully submitted that claim 1, as amended herein, is not anticipated by Kamangar. Therefore, withdrawal of the 35 U.S.C. § 102(b) rejection of claim 1 is respectfully requested.

Each of claims 2-15, depends either directly or indirectly, from amended independent claim 1. As such, it is respectfully submitted that Kamangar fails to describe, either expressly or inherently, each and every element of these claims for at least the above-cited reasons. Accordingly, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 2-15 is respectfully requested.

Rejections based on 35 U.S.C. § 103

Claims 16-32, 34-46 were rejected under 35 U.S.C. 103(a) as ostensibly being unpatentable over Kamangar in view of Meisel, et al., U.S. Publication No. 2003/0033292 (hereinafter "Meisel").

Independent Claim 16

Independent claim 16, as currently amended, in part recites a search results optimization system. The system includes a performance measurement process, a listing placement process, and a displaying process. The performance measurement process measures an actual performance against an expected performance for a listing. The listing placement process promotes or demotes the listing to a more prominent or less prominent location based on the measurement. The promotion or demotion of the listing is independent of a promotion or demotion of any other listings. The displaying process displays the listing in the more or less prominent location.

Kamangar fails to teach or describe all of the limitations of independent claim 16. Kamangar, as described previously, describes selecting a final set of ads, determining a score for each of the ads in the final set, and ordering the ads based on their scores. As such, the promotion or demotion of each ad is dependent on the promotion or demotion of each of the other ads in the final set. For example, when one ad is promoted another ad must be demoted,

because two ads cannot occupy a single position in the ordering of the ads. Conversely, by independent claim 16 the promotion or demotion of a listing is independent of the promotion or demotion of another listing. For example in claim 16, taking two ads A and B and two placement positions 1 and 2, ad A could be promoted to position 1 and ad B could be promoted to position 1. However, by Kamangar ad A could be ranked in position 1 and ad B in position 2, or vice versa, but since ads A and B are ranked with respect to one another, ads A and B cannot be in the same position.

The Office Action also cites Meisel in support of Kamangar. Meisel fails to cure the deficiencies of Kamangar. Meisel describes a pay-for-placement search result system that is determined by a site promoter. *Meisel* at ¶ [0038]. A site promoter participates in bidding on search terms relevant to the content of the site promoter's website. *Id.* at ¶ [0048]. The relevance of the search term to the site promoter's website is determined and utilized to weight the bids such that the most prominent locations in the search results webpage are occupied by ads that are relevant to the search results and have the highest bids. *Id.* at ¶¶ [[0048] and [0049].

As such, Meisel describes a ranking system similar to that described by Kamangar. Meisel identifies a rank value for each bid based on various factors to rank the bids with respect to one another. Thus, like Kamangar, Meisel ranks a group of bids/listings with respect to one another based on a rank value, which is dissimilar to the operations recited by independent claim 16. Further, Meisel does not describe promoting or demoting a listing independent of the promotion or demotion of another listing as described previously above and recited by the claim.

Accordingly, Applicants submit Kamangar and Meisel, either alone or in combination, fail to teach or suggest all of the limitations of independent claim 16 as amended.

Applicants respectfully submit that independent claim 16 is not obvious over Kamangar in view of Meisel, and request withdrawal of the rejection under 35 U.S.C. § 103(a). Independent claim 16 is believed to be in condition for allowance and such favorable action is hereby respectfully requested.

Claims 17-25 depend, either directly or indirectly, from independent claim 16. Thus, Applicants respectfully submit that Kamangar and Meisel, either alone or in combination, fail to teach or suggest all of the limitations of dependent claims 17-25 for at least the above-cited reasons. Accordingly, Applicants respectfully submit that dependent claims 17-25 are not obvious over Kamangar in view of Meisel, and request withdrawal of the 35 U.S.C. § 103(a) rejection thereof. Claims 17-25 are believed to be in condition for allowance and such favorable action is hereby respectfully requested.

Independent Claim 26

Independent claim 26, as currently amended, recites limitation similar to those of independent claims 1 and 16 described above, such as promoting and demoting a listing independent of the promotion or demotion of any other listings. As such, the remarks provided above with respect to independent claims 1 and 16 apply equally to independent claim 26.

As such, Applicants submit Kamangar and Meisel, either alone or in combination, fail to teach or suggest all of the limitations of independent claim 26. Accordingly, Applicants respectfully submit that independent claim 26 is not obvious over Kamangar in view of Meisel, and request withdrawal of the rejection under 35 U.S.C. § 103(a). Independent claim 26 is believed to be in condition for allowance and such favorable action is hereby respectfully requested.

Claims 27-31 depend, either directly or indirectly, from independent claim 26. Thus, Applicants respectfully submit that Kamangar and Meisel, either alone, or in combination, fail to teach or suggest all of the limitations of dependent claims 27-31 for at least the above-cited reasons. Accordingly, Applicants respectfully submit that dependent claims 27-31 are not obvious over Kamangar in view of Meisel, and request withdrawal of the 35 U.S.C. § 103(a) rejection thereof. Claims 27-31 are believed to be in condition for allowance and such favorable action is hereby respectfully requested.

Independent Claim 32

Independent claim 32, as currently amended, recites one or more limitations similar to those described above with respect to independent claims 1, 16, and 26, such as comparing an actual performance to an expected performance and moving a listing to a more or less prominent location independent of a movement of any other listings. As such, the remarks provided above with respect to independent claims 1, 16, and 26 apply equally to independent claim 32.

Therefore, Applicants submit Kamangar and Meisel, either alone or in combination, fail to teach or suggest all of the limitations of independent claim 32. Accordingly, Applicants respectfully submit that independent claim 32 is not obvious over Kamangar in view of Meisel, and request withdrawal of the rejection under 35 U.S.C. § 103(a). Independent claim 32 is believed to be in condition for allowance and such favorable action is hereby respectfully requested.

Claims 34-46 depend, either directly or indirectly, from independent claim 32. Thus, Applicants respectfully submit that Kamangar and Meisel, either alone or in combination, fail to teach or suggest all of the limitations of dependent claims 34-46 for at least the above-

cited reasons. Accordingly, Applicants respectfully submit that dependent claims 34-46 are not obvious over Kamangar in view of Meisel, and request withdrawal of the 35 U.S.C. § 103(a) rejection thereof. Claims 34-46 are believed to be in condition for allowance and such favorable action is hereby respectfully requested.

CONCLUSION

For at least the reasons stated above, claims 1-12, 14-32, and 34-46 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or areed@shb.com (such communication via email is herein expressly granted) – to resolve the same. It is believed that the required fees are submitted herewith, however, the Commissioner is hereby authorized to charge any additional amount required to Deposit Account No. 19-2112.

Respectfully submitted,

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